IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7878 of 2005

Between:

1 Mother Theresa Educational Society, Raigir Village, Bhongir Mandal, Nalgonda District, rep. by its Correspondent, V.Jayachadra Reddy, S/o. Yerram Reddy, aged 37 years R/o. Bhongir, Nalgonda District.
2 Nalanda Educational Society, Suryapet, Nalgonda District, rep. by its Secretary, A.Nagarjuna S/o. Balkistaiah, aged 48 years
3 Madina Educational Society, Kodad, Nalgonda District, rep.by its Secretary, Syed Jaffar S/o. Syed Jamal, aged 38 years
4 Sri Venkateswara Educational Society, Bagh Langampally, Hyderabad, rep. by its Secretary, K.Sekha Reddy, S/o. K.Sathi Reddy, ated 37 years
5 Sri Saraswathi Vidya Nilayam Educational Society, rep. by its Secretary, P.Madhusudhan Reddy, S/o. P.Narasimha Reddy, aged 42 years R/o. Hyderabad.
6 Katipally Ravinder Reddy Education Society, Nizamabad, rep. by its President, K.M.Mahender Reddy, S/o. K.Mohan Reddy, aged 49 years R/o. Hyderabad.
7 Scient Education Society, Hyderabad rep by its. Secretary, K.C.Shekhar Reddy, S/o. K.Raghava Reddy, aged 50 years, Hyderabad.

..... PETITIONERS

AND

1 Govt of A.P., rep. by its Principal Secretary to Govt School Education (Training - A1) Dept., at Secretariat, Hyderabad.
2 Osmania University, Hyderabad, rep. through its Registrar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, order or direction, declaring the action of the 2nd respondent in returning the applications of the

petitioners for grant of affiliation to the colleges established by them to start B.ED Course, on the ground that the petitioners do not have permission from the State Govt., as illegal and arbitrary and consequently direct the 2nd respondent to forthwith grant affiliation to the colleges established by petitioners, for the year 2004-2005, as per Section 14(6) of NCTE Act, without insisting for grant of permission from the State Govt; Award costs and pass such other or further orders.

Counsel for the Petitioner : MR. N.SRIDHAR REDDY

Counsel for the Respondents : GP FOR SCHOOL EDUCATION

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.7878 OF 2005

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ORDER :

The writ petitioners are the Educational Societies which intended to establish Colleges of Education at different places in the State. In pursuance of the notifications issued in terms of the guidelines under G.O.Ms.No.398, Education, dated 4-12-1997, the petitioner Societies have applied seeking permission to start Colleges of Education and having considered the same, the Government of A.P. granted No Objection Certificates to all the petitioners, on the basis of which the petitioners have applied to the Southern Regional Committee of National Council for Teacher Education (N.C.T.E.) for grant of recognition. It is not in dispute that all the petitioners herein have been granted recognition by the N.C.T.E. for the academic session 2004-05 with an annual intake specified in the respective orders. Pursuant to the recognition granted by the N.C.T.E., the petitioners made applications to the 2nd respondent – Osmania University, Hyderabad for grant of affiliation. The said applications were returned by the 2nd respondent herein by identical letters dated 6-4-2005, which run as under :

"With reference to your letter cited, I am to inform you that as per University norms a College will be considered for grant of provisional affiliation to start B.Ed. Course only after obtaining NCTE recognition

and permission from the Government to start the College.

You are therefore directed to obtain Government permission and approach the University to consider grant of provisional affiliation for the academic year 2004-05 to start the Course. Hence, you application along with the enclosures is returned herewith."

Aggrieved by the said action of the 2nd respondent University in returning the applications made by the petitioner Societies for grant of affiliation, this writ petition is filed.

The contention of the petitioners is that as per Section 14(6) of the National Council for Teacher Education Act, 1993 (for short, 'the Act') the examining body i.e., the University shall on receipt of the order of recognition by the N.C.T.E., grant affiliation to the institution and it has to cancel the affiliation where recognition has been refused and therefore the affiliation shall follow the recognition as a matter of course. Thus, according to the petitioners, the 2nd respondent University is not at all justified in returning the applications submitted by the petitioners insisting on obtaining *'permission'* from the Government.

On behalf of the 2nd respondent University, the Registrar of University filed a counter-affidavit stating that the University has the discretion to grant affiliation or not to grant affiliation. It is also stated that as per the norms fixed by the University for B.Ed. course, the University insisted for clearance by the Government of A.P. since the admission test was conducted by the State Government known as EDCET stipulating various conditions. It is further stated that the affiliation norms are set by the University from time to time depending upon the academic requirement and to maintain the academic standards of the University and the applications of the petitioners were returned in exercise of the power of the University under Section 19(16) of the A.P. Universities Act, 1991 and the Affiliation Rules in force. It is contended that Section 14(6) of the N.C.T.E. Act, if held to be mandatory in nature, it will amount to encroaching upon the jurisdiction of the University in the matter of granting affiliation exercising its power under Section 19 of the A.P. Universities Act, 1991. Such an interpretation would also amount to curtailing the discretionary powers vested in the University in the matter of granting affiliation and therefore the

writ petition is devoid of merit and liable to be dismissed.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned Senior Counsel Sri D.Prakash Reddy, appearing for the petitioners, submitted that since the State Government has already granted No Objection Certificate, the insistence of the 2nd respondent University for obtaining *permission* from the Government is unwarranted. He contends that there is no provision under any Statute which provides for such further *permission* from the Government to start the College. The learned Counsel contends that the language of sub-Section (6) of Section 14 of the NCTE Act is very clear and unambiguous and on a reading of the same the only conclusion that can be drawn is that once the recognition is granted by the N.C.T.E., the affiliation by the concerned University should follow.

On the other hand, the learned Standing Counsel for the 2nd respondent University, Sri Deepak Bhattacharjee submits that the affiliation is a matter which is at the sole discretion of the University in exercise of its powers under Section 19(16) of the A.P. Universities Act, 1991. He also contends that the word 'shall' in sub-Section (6) of Section 14 of the N.C.T.E. Act has to be read as 'may' on application of doctrine of harmonious construction. The learned Standing Counsel also points out that the action of the University in returning the applications of the petitioners with a direction to resubmit after obtaining the State Government *permission* cannot be said to be contrary to the provisions of Section 14(6) of the NCTE Act.

At the outset, it is to be noted that the fact that all the writ petitioners were granted N.O.C. by the State Government and they were also granted recognition by the N.C.T.E. is not in dispute.

On a perusal of the impugned letter, extracted above, it is clear that the only objection raised by the 2nd respondent University was that the petitioner shall obtain

permission from the Government to start the College.

The learned Standing Counsel though contended that under sub-Section (6) of Section 14 of the N.C.T.E. Act, the affiliation by the University is not automatic, he could not point out any provision under the N.C.T.E. Act or any other Statute which provides for *permission* from the Government to start the College, after the institution was granted N.O.C. by the Government and recognition by the N.C.T.E. In the absence of any such provision, the action of the 2nd respondent University in returning the applications for grant of affiliation only on the ground of further *'permission'* from the Government appears to be unwarranted and cannot be sustained.

Having regard to the facts and circumstance of the case and particularly in view of the fact that the applications of the petitioners were not rejected but were merely returned by the University, I am of the view that it is not necessary at this stage to go into the larger issue whether the grant of affiliation is automatic, which requires interpretation of sub-Section (6) of Section 14 of the NCTE Act in the light of other statutory provisions which deal with the power of Universities to grant affiliation.

So far as the case on hand is concerned, since the only objection raised by the 2nd respondent University in the impugned letters that the petitioners have to obtain the *permission* from the Government is found to be unwarranted and untenable, I deem it appropriate to dispose of the writ petition with a direction to the 2nd respondent University to reconsider the request of the petitioners for grant of affiliation and to pass appropriate orders afresh.

Accordingly, the impugned letters dated 6-4-2005 are set aside and the Writ Petition is disposed of with a direction to the 2nd respondent University to consider the applications of the petitioners afresh for grant of affiliation to the colleges established by them for the academic year 2004-05 without insisting for obtaining *permission*

from the Government to start the colleges and to pass appropriate orders in accordance with law as expeditiously

as possible preferably within a period of one week from the date of receipt of this order. No costs.

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13th April, 2005.

Note:- CC by tomorrow.

(B/O)

gbs

To

1 The Principal Secretary to Govt School Education (Training -A1) Dept., Govt of A.P., at Secretariat, Hyderabad.
2 The Registrar, Osmania University, Hyderabad.

3. Two CCs to G.P. for School Education, High Court of AP Bldgs, Hyderabad(OUT).

4. Two CD copies.